IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.2431 OF
IN
FIRST APPEAL NO.1224 OF 2003

Office notes, office memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders.

CORAM : ABHAY S.OKA, J.

DATED : 13th August, 2004.

P.C.:

1. Heard the learned Counsel appearing for the parties.

2. The Application is made by the Respondents in the First Appeal. The Appeal is against money decree. The Appellant has deposited the decretal amount in the trial Court. The prayer in this Application is for permitting the Respondents to withdraw the said amount. The Application is strongly opposed by the Counsel appearing for the Appellant in the First Appeal. As the Applicants in the Civil Application have succeeded in the trial Court and as there is a money decree passed in their favour, they are entitled to withdraw the decretal amount. However, the amount will have to be secured and therefore, withdrawal of the amount will have to be permitted subject to the Applicants

furnishing Bank Guarantee of a nationalised bank.

3. Hence the Civil Application is allowed in terms of prayer clause (a). However, it is made clear that the Applicants are entitled to withdraw the decretal amount only on furnishing Bank Guarantee of a nationalised bank for the entire amount to the satisfaction of the trial Court. No order as to costs.

Judge.